

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah, in the interest)	MEMORANDUM DECISION
of D.N., A.S., A.N., J.S., and)	(Not For Official Publication)
A.S., persons under eighteen)	
years of age.)	Case No. 20051108-CA
_____)	
)	
C.N.,)	F I L E D
)	(May 11, 2006)
Appellant,)	
)	2006 UT App 194
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 456839
The Honorable Kimberly K. Hornak

Attorneys: Julie George, Salt Lake City, for Appellant
Mark L. Shurtleff, John M. Peterson, and Carol L.C.
Verdoia, Salt Lake City, for Appellee
Martha Pierce and Kristin Fadel, Salt Lake City,
Guardians Ad Litem

Before Judges Greenwood, Davis, and Orme.

PER CURIAM:

C.N. (Mother) appeals the termination of her parental rights. Mother argues that the evidence was insufficient to support the juvenile court's findings that resulted in termination of her parental rights in her children.

"Findings of fact in a parental rights termination proceeding are overturned only if they are clearly erroneous." In re S.T., 928 P.2d 393, 400 (Utah Ct. App. 1996). A finding of fact is clearly erroneous only when, in light of the evidence supporting the finding, it is against the clear weight of the evidence. See In re E.R., 2001 UT App 66, ¶11, 21 P.3d 680. In addition, a juvenile court "is given a wide latitude of discretion as to the judgments arrived at based upon not only the court's opportunity to judge credibility firsthand, but also

based on the juvenile court judges' special training, experience and interest in this field, and . . . devoted . . . attention to such matters." Id. (quotations and citation omitted).

The juvenile court entered findings supporting five separate grounds for termination of Mother's parental rights--neglect, unfitness, failure to remedy circumstances, failure of parental adjustment, and token efforts. See Utah Code Ann. § 78-3a-407(1)(b)-(f) (Supp. 2005). Any one of these grounds was sufficient, by itself, to justify termination of Mother's parental rights. See id. § 78-3a-407(1); In re F.C. III, 2003 UT App 397, ¶6, 81 P.3d 790 (mem.). Thus, in affirming the juvenile court's findings, we need only discuss one of the grounds for termination. We address failure of parental adjustment. See Utah Code Ann. § 78-3a-407(1)(e).

"Failure of parental adjustment" means that

a parent or parents are unable or unwilling within a reasonable time to substantially correct the circumstances, conduct, or conditions that led to placement of their child outside of their home, notwithstanding reasonable and appropriate efforts made by the Division of Child and Family Services to return the child to that home.

Id.

The juvenile court considered Mother's past history and the progress she made since services were terminated. The court ultimately determined that termination was appropriate after balancing these factors:

Although the evidence is clear that there's a bond of love and affection between the children, these parents have done nothing until the eleventh hour to remedy the circumstances. In fact, the [c]ourt is very discouraged and bothered by the fact that as recently as May of this year, the mother was still using drugs, and that this baby was born testing positive for drugs. It was only a month or two before this trial that the parents have finally stepped up to the plate and done some drug tests and tried to get into treatment, but until that point, they have done nothing to change the circumstances.

The record supports the juvenile court's determination. Thus, given the evidence before the court, we cannot say that the juvenile court's findings supporting its determination that Mother "experienced a failure of parental adjustment" are clearly erroneous.

Mother generally argues that the juvenile court erred in its determination regarding parental adjustment because it relied on Mother's past failures rather than her more recent compliance. This argument ignores the juvenile court's specific findings as well as established caselaw that requires consideration of Mother's prior history:

[A]lthough the court has a duty to look forward--i.e., to look at the parent's present ability and the likelihood that the parent will be able to resume parenting within a reasonable time--the court must consider such evidence in light of the parent's past conduct and its debilitating effect on the parent-child relationship.

In re M.L., 965 P.2d 551, 561-62 (Utah Ct. App. 1998).

Accordingly, the order terminating Mother's parental rights is affirmed.

Pamela T. Greenwood,
Associate Presiding Judge

James Z. Davis, Judge

Gregory K. Orme, Judge